

PAYROLL PUBLIC RECORDS EXEMPTION FORM



THIS FORM IS CONFIDENTIAL AND MAY NOT BE DISCLOSED FOR ANY REASON

Under the public records law G. L. c. 4, § 7(26), an employee's name, title, salary and department are considered public information. If a public information request is made for this information, your department (or the Office of the Comptroller for statewide payroll requests) is mandated to provide this information, including electronically. Under the public records law, a person making a public records request can not be asked the reason for the request, nor can the Commonwealth control how that individual uses or publishes this information.

However, the public records law also provides certain exemptions, including G. L. c. 66, § 10(d), which states that the name, home address, home telephone number, place of employment or education for state employees and family members who are also employed by the Commonwealth are exempt from public records disclosure if the employee was a victim of an adjudicated crime or is a victim of domestic violence, sexual assault or rape. **If you believe you qualify for one of these exemptions, please complete this form, attach supporting documentation or a written statement of your circumstances, and submit to your Human Resources Director.**

Please see the attached Frequently Asked Questions (FAQs) for additional information. If you have any questions about completion of this form, or whether or not you qualify for this exemption, please contact your HR Director. If you are uncomfortable discussing this with your HR Director, you may speak in confidence to your Department's General Counsel, or in lieu of a Department individual, you may contact **Jean Haertl, Director of Workplace and Domestic Violence Prevention at 617-878-9822**. Please note that Department Heads, Chief Fiscal Officers, Payroll Directors, General Counsel and other high ranking managers or officers, and other individuals who represent the Department publicly are not eligible for this exemption.

If approved, the exemption flag for you and any family members that you list below who are also state employees, will be entered in the payroll system on a separate panel with a generic "do not publish" flag. This form, supporting documentation and any conversations relating to this exemption is considered strictly confidential and will not be disclosed for any reason. All supporting documentation will be reviewed and then returned to you, or destroyed, and shall not be included in your personnel file. This form shall be maintained in one confidential file within the agency's Human Resource/or General Counsel's Office or a centralized location designated by the Agency Head/Cabinet Secretary or Appointing Authority.

CERTIFICATION

I (Print Name clearly) _____ hereby certify under the pains and penalties of perjury that I am an employee and the following exemption applies to me and any family members I have listed below.

___ **I am a victim of an adjudicated crime** (e.g. victim of a crime such as burglary, assault, battery, stalking, arson where matter has been resolved. The alleged perpetrator was arrested and this matter was either dismissed, litigated or settled). *Please provide official documentation of final disposition of case or other supporting documentation supporting claim (such as an affidavit from your attorney, the prosecutor for the case, or your caseworker).*

___ **I am a victim of domestic violence, sexual assault, or rape.** *While documentation is not required, if available, please provide a copy of any existing 209A restraining order, or a signed statement outlining your situation.*

I am identifying the following family members who are also state employees who should also have the exemption flag:

Name: _____ Relationship: _____ Department: _____ Employee ID # _____

Name: _____ Relationship: _____ Department: _____ Employee ID # _____

Signature of Employee

Employee ID #

date

Signature of Family Member

Signature of Family Member

Signature of HR Director or Authorized Designee

date documentation confirmed

PLEASE SUBMIT THIS FORM TO YOUR HUMAN RESOURCES DIRECTOR



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FREQUENTLY ASKED QUESTIONS

- 1. Why is this form being distributed?** Under the public records law G. L. c. 4, § 7(26), an employee's name, title, salary and department are considered public information. If a public information request is made to either your employing department, or a statewide payroll request is made to the Office of the Comptroller (CTR), your department and CTR are mandated to provide this information, including electronically. Under the public records law, a person making a public records request can not be asked the reason for the request, nor can the Commonwealth control how that individual uses or publishes this information.

The personal safety of certain victims of adjudicated crimes or domestic violence, sexual assault or rape may be compromised when this type of information is released. There are exemptions under G. L. c. 66, § 10(d), which state that the name, home address, home telephone number, place of employment or education for state employees and family members who are also employed by the Commonwealth are exempt from public records disclosure if the employee was a victim of an adjudicated crime or is a victim of domestic violence, sexual assault or rape. This form is being distributed to enable employees to self identify for this exemption. **Please note that Department Heads, and other individuals who represent the Department publicly are not eligible for this exemption.**

- 2. I am a victim of domestic violence, sexual assault, or rape but I do not have documentation proving that I am a victim. Can I still claim this exemption?** Yes. We know that many victims of domestic violence, sexual assault or rape typically do not want to disclose these issues to their employer due to their concerns regarding confidentiality and privacy, the fear that their employment or opportunities will change, and concerns about being stigmatized. If you are a victim of domestic violence, sexual assault or rape we encourage you to complete this form and submit to your HR Director to obtain the exemption. Your HR Director may ask you to submit either a signed statement outlining your circumstances and safety concerns or a copy of a protective order, if any. If you are uncomfortable providing written documentation, you may provide a brief oral description to your HR Director identifying the need for the exemption due to safety concerns. Your HR Director (or designee) may ask you some questions to ensure that your request is legitimate so that the exemption is provided only to eligible individuals. Your HR Director will not offer legal advice, but may provide a list of resources related to domestic violence and may address your needs or concerns for any workplace safety plans.
- 3. What if I don't want to turn this form into my HR Director?** There is no requirement that you complete or turn in this form. However, if you qualify for the exemption and you want to have your name, title and department exempted from payroll public records requests made either to your department or to the Office of the Comptroller (statewide payroll requests) you must submit this form. You may submit this form and supporting documentation (if available) to your HR Director, your General Counsel or in the alternative, you have the option of contacting (in confidence) **Jean Haertl, Director, Workplace and Domestic Violence Prevention** who will facilitate the processing of your form. Your HR Director will be notified that your exemption has been entered in the payroll system.
- 4. What happens after I turn in the form to my HR Director?** If approved, the exemption for you and any family members that you list will be entered in the payroll system. The reason for the exemption is not identified in the payroll system. Access to the exemption in the payroll system will be limited to HR Directors and those individuals who must redact your (and family members) information when a payroll public records request is made.
- 5. Where will these forms kept and who will have access to the forms?** The forms will be kept in one confidential file within the agency/department's Human Resources office. If the forms are not submitted to your HR or General Counsel, but are submitted to **Jean Haertl, Director, Workplace and Domestic Violence Prevention**, the forms will be retained at the Human Resources Division in a confidential file. In either case, the forms are confidential and will not be disseminated for any reason. All supporting documentation related to the submission of the form will either be returned to you at the time of the request or destroyed.
- 6. Why are the forms retained on file, rather than just destroyed when the exemption is entered in the payroll system?** Given the risk of ineligible individuals seeking to obtain the exemption, so that their payroll information is not released publicly, the Commonwealth needs to be able to conduct quality assurance reviews or audits of the use of exemptions. Therefore, CTR will conduct periodic quality assurance with HR Directors



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to ensure that they are obtaining the forms, reviewing the basis for the exemption, and maintaining confidential files for the forms. CTR will not contact any employee directly to verify the information related to the exemption.

7. **How long will the exemption last?** The exemption will be valid for 5 years. Upon the date of expiration, HRD will notify your HR Director who will, in turn, notify you that the exemption will be removed unless you resubmit a new form.
8. **Is it ever appropriate for my HR Director to ask to maintain a copy an active restraining order?** Yes. An active 209A abuse prevention order applies to your workplace, and violation of that order is a mandatory arrest for any abuser. Your HR Director should work with you to ensure a safety plan is completed that addresses the provisions set forth within this order.
9. **I have family members who also work for the Commonwealth. Can their names and departments be excluded from public disclosure?** Yes. If you qualify under one of the exemptions, either as a victim of an adjudicated crime, or as a victim of domestic violence, rape or sexual assault, you may identify any family member who also works for a Commonwealth state agency. We are only able to apply the exemption to employees in the payroll system (not state authorities, quasi-public entities, municipalities or employees in higher education who are not paid through the payroll system). You must identify the legal name, department, and employee ID of the family member and obtain their signature in order for the exemption to be entered in the payroll system.
10. **Who is considered a “family” member?** A family member is the spouse, child, foster child, step child, parent, step parent, brother, sister, grandparent, grandchild of either the victim or his/her spouse, person for whom the employee is legal guardian, or a person living in the victim’s immediate household.
11. **I am a state employee and I have a family member who is victim of domestic violence. Can I claim the exemption for either my family member or myself?** No. The exemptions under this form may be claimed solely by the victim. For privacy reasons you may not identify another individual who is a victim under either exemption in order to claim the exemption either for you or for them. We encourage you to work with the victim to claim this exemption through their department. If the victim is not a state employee, the victim will need to submit this form and documentation to the family member’s HR Director requesting the exemption for the employee as a family member.
12. **I filed this form and received the exemption. Recently, a family member has now started working for the Commonwealth. Can I list this family member now?** Yes. You may claim the exemption for you or any family member at any time. Just complete this form with the listed family member and submit to your HR Director. You do not have to resubmit supporting documentation since this has already been reviewed.
13. **How is the Commonwealth guarding against the misuse of the public records exemption program?** Employees who are untruthful in their request for exemption from the public records law may be subject to disciplinary action.
14. **How do I know that my information will not be released?** This process is new and will take some time to implement. However, the Commonwealth is committed to upholding current public records statutes, including authorized exemptions. HR Directors must coordinate with their Public Information Officers for all payroll information requests to ensure that all exempted employee records are redacted from any disclosed report.
15. **What if I am denied my request for an exemption?** If you are denied a request by your HR Director or General Counsel, you may contact **Jean Haertl, Director, Domestic and Workplace Violence Prevention** who will review for a final determination. Every effort will be made to make this determination quickly. If you receive the exemption, your HR Director will be notified and your exemption will be entered in the payroll system.
16. **Will I be notified if someone requests my personal information and will I be told who that person is so I can work to increase my safety planning?** CTR notifies CFOs and Payroll Directors when any payroll request is made to CTR related to your department (either statewide or for a specific individual). Requests



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made directly to your department should be handled in a similar way, with coordination between your HR Director and the Public Records Officer. Safety planning should be discussed with your HR Director/Domestic Violence Coordinator.

17. **Does this exemption apply if I am in the middle of the court process – am I still eligible for exemption?** Maybe. For victims of adjudicated crimes (crimes that have been resolved through the courts system after an arrest has been made) you will need to provide some documentation of the case. This may include a trial report, prosecutor statement, or other supporting documentation of the case and outcome. If you are involved in a current criminal case and you have imminent safety concerns, your HR Director will determine whether the exemption is appropriate. Since the goal is safety, and you would be eligible for the exemption once the criminal matter is resolved, we believe that the exemption can be used to protect disclosure of your payroll information.
18. **The criminal charges against my perpetrator were dismissed – am I still eligible for exemption?** Yes. The fact that a case was dismissed does not negate the fact that you are a victim of a crime. Therefore, if you have been involved in a recent criminal case as a victim and you have imminent safety concerns, your HR Director will determine whether the exemption is appropriate.
19. **If I transfer to another agency does the exemption follow me? Is the receiving agency notified of my exemption status? Who is responsible for that notification? Do I bring my paperwork with me?** The exemption is tied to an employee ID and will transfer with the employee ID. The paperwork will remain with the previous department, unless you request that this information be transferred to your new agency.
20. **Am I responsible for notifying our Public Records person that I have an exemption?** No, and for privacy reasons, you should not be communicating this information directly to anyone in your agency other than the HR Director. It is the joint responsibility of the HR Director and the Public Records Officer to coordinate efforts when payroll requests are made to ensure they view the Commonwealth Information Warehouse (CIW) to identify exempted employees prior to responding to any information requests.
21. **What are the available internal and external resources to address a domestic violence, sexual assault, or a rape related situation?** You should check with your HR Director, victim service personnel or domestic violence coordinator for internal available training, policy or victim assistance resources. The Commonwealth of Massachusetts has an extensive network of legal, counseling, and support resources to assist victims.

Victims of domestic violence are urged to contact the State Domestic Violence Hotline (SAFELINK) a free and confidential 24 hour resource at 1-877-785-2020 for domestic violence assistance or support.

- Jane Doe, Inc., the Massachusetts Coalition Against Sexual Assault and Domestic Violence is a non-profit with 60 rape crisis and domestic violence member programs offering free and confidential services across the state. For a list of Jane Doe, Inc member programs, please visit www.JaneDoe.org.
- In addition, The Massachusetts Office for Victim Assistance, established by law as an independent state agency in 1984, offers extensive services and resources for victims of crime. For more information, please visit www.mass.gov/mova
- For Executive branch employees, specific domestic violence and workplace violence policy and training resources are available. Please visit www.mass.gov/hrd